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ELIMINATING TORTURE

"They hung me up by the arms and gave me electric shocks. They hosed me with water at high pressure. They forced the hose into my throat and [turned on] the water. They squeezed my testicles"
—an 18-year-old detained by police in January 1992 on charges of theft and held incommunicado for nine days.

Such testimony, by no means the most gut-wrenching on record, is painfully familiar. The crime of torture remains a brutal fact of life the world over, from democracies to dictatorships, in peacetime and in war, in rich countries and in poor. Civilians as well as political activists and prisoners of war continue to fall into the hands of torturers.

One might think that humankind would have sworn off this cruellest and most ignominious form of human rights violation long ago. But such faith in human kindness would be sadly misplaced: reports of torture continue to be widespread. And when it comes to devising more "effective" means of torture, the human imagination seems to flourish.

The phenomenon of torture and the need to achieve greater compliance with the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment have been raised within the framework of preparations for the World Conference on Human Rights to be held in Vienna in June 1993. Among the major goals of the Conference is to intensify the world-wide struggle to eliminate the practice of torture once and for all.

Defining Torture

The Convention against Torture adopted by the General Assembly in 1984 defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions." The Convention entered into force in June 1987 and as of September 1992 had 68 States parties.

The historical record shows that torture was meted out as far back as the reign of Ramses II. For most of the three thousand years since then, society viewed torture as an acceptable measure to use as protection against crime or dissension. It was only in nineteenth-century Europe, after the concept of human rights was more clearly elucidated and accepted by States, that the practice was discredited and forbidden. The impetus for this action was the drafting, in 1864, of the First Geneva Convention protecting prisoners of war and the wounded. The Convention was the work of Henry Dunan of Switzerland, who founded the International Committee of the Red Cross (ICRC) in 1863. It was revised in 1906 and 1924.

Torture methods differ from one country to another, often acquiring a country's local language to designate particular ways of making people suffer. In general, physical torture may take the form of beatings with truncheons or rifle butts; beating the soles of the feet with a rod; electrocution; burning with cigarettes; submersion of victims' heads in water until suffocation; nakedness, sexual assaults and rape; dental abuses; and deprivation of food and water. Of course, there are as many variations on these broad themes as there are torturers; one recent report told of a prisoner who was forced to swallow nails.

Psychological torture may include sleep deprivation, solitary confinement, mock execution, threats and verbal aggression. Torturers sometimes prefer these techniques to scarring the body so as to escape detection should an investigation be performed later. Physical torture also exacts a psychological toll. Torture's after-effects may include neurological or mental disorders, anxiety, prolonged fatigue and headaches, gastro-intestinal disorders, joint pains, cardio-pulmonary problems and pains related to traumas.

Why torture? An expert member of the Committee against Torture, established by the Convention against Torture, claims that the aim of governmental torture in modern times is "to destroy the identity of strong persons, to kill their souls, but not their bodies".

A study based on extensive interviews with military officers who had been heavily involved in torture revealed that torture was seen as the only means of getting to the truth rapidly where rapidity was considered to be essential. The goals of torture may also include destroying a person involved in opposition movements, breaking down his or

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her dignity, frightening the families of victims and spreading fear among the general populace. Torture is also considered an effective weapon against democratic movements. In addition to political leaders, common victims of torture include trade-unionists, journalists, student leaders and members of non-governmental organizations.

On a more perverse level, the sadistic pleasure derived by the powerful in degrading and punishing the powerless cannot be discounted as a factor driving the practice. Another reason that torture is so widespread is that it is a human rights violation that can be accomplished very easily. It tends to occur in isolation—in detention cells, interrogation rooms and torture chambers—and the victim, usually hooded or blindfolded, may never see the face of his torturer, robbing him of the eye-to-eye contact that might establish some bond of humanity. Instead, the victim becomes an object and the torturer escapes accountability.

Who are the actual perpetrators of torture? Torture is generally practised by government-employed persons in conditions where impartial witnesses are absent. In addition to military personnel, they might be members of intelligence services, police forces and State security agencies as well as jailers and medical professionals. Opposition organizations, rebel groups, terrorists, armed gangs, drug traffickers and others have also been known to commit torture.

Legal Protection

According to Peter Kooijmans, the Special Rapporteur on questions relevant to torture for the United Nations Commission on Human Rights, "There is hardly any human right which is so densely covered by a network of international instruments and mechanisms."

The Convention against Torture defines torture as an international crime so that torturers will find no safe haven. It obliges States parties to prevent torture in their jurisdictions and to ensure that it is legally punishable. No exceptional circumstances, such as war, threat of war, internal political instability or other emergency, may be invoked to justify torture; nor can a torturer be excused by virtue of having acted under orders.

The Convention also provides for the extradition of persons believed to have committed acts of torture or, failing extradition, for a torturer's prosecution, under certain conditions, in the State where he or she is found. States parties to the Convention must also ensure that torture victims receive protection and compensation. In addition, the Convention gives States parties the opportunity to make declarations recognizing the Committee against Torture's competence to consider claims by one State party against another or to consider complaints from individuals, as is possible under many other human rights instruments.

The Committee is composed of 10 experts elected by States parties and chosen for their "high moral standing and recognized competence in the field of human rights, who shall serve in their personal capacity". It is empowered to review and comment on reports from States parties on steps they take to implement the Convention. It may also undertake confidential inquiries in cases of serious allegations of torture, and request cooperation from the States parties against which such allegations are made. Once a year, the Committee submits a report on its activities to the Convention's States parties and to the General Assembly.

Additional legal protection is provided by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, both of which state that no one should be subjected "to torture or to cruel, inhuman or degrading treatment or punishment". Torture is also prohibited by the Convention on the Prevention and Punishment of the Crime of Genocide (1948), the International Convention on the Suppression and Punishment of the Crime of Apartheid (1973) and the Convention on the Rights of the Child (1989), adopted by the United Nations General Assembly.

Corporal punishment, placing of prisoners in dark cells and all cruel, inhuman or degrading punishment are forbidden by the Standard Minimum Rules for Treatment of Prisoners adopted in 1955 by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Torture and cruel treatment are likewise prohibited by the Code of Conduct for Law Enforcement Officials adopted by the General Assembly in 1979.

In 1982, assisted by the World Health Organization, the Council for International Organizations of the Medical Sciences and the World Medical Assembly, the General Assembly formulated and adopted a set of "Principles of Medical Ethics" relevant to the role of health personnel, particularly doctors, in protecting prisoners and detainees from torture and cruel punishment. Since then, the Assembly has expressed concern over reports that medical professionals were engaging in activities that were difficult to reconcile with those Principles, and has urged States to promote application of the Principles by health personnel and government officials.

In addition to the procedures established in the Convention against Torture for implementing its provisions, the Commission on Human Rights has introduced an extra-conventional mechanism in order to be able to respond effectively to credible and reliable allegations of torture. In 1985, the Commission decided to appoint a Special Rapporteur to examine questions relevant to torture and requested him to report annually on his activities.

Combating Torture

Despite these and other legal protections, torture continues, even in

States parties to the Convention against Torture. As the Special Rapporteur concluded in his 1992 report to the Commission on Human Rights, "The world can no longer avoid the conclusion that while successes have been registered at the international level, only failures can be recorded at the national level. The most vital question before us, therefore, is: how do we bridge this seemingly unbridgeable gap?"

During 1991, the Special Rapporteur received what he termed an alarming number of communications on alleged cases of torture, including increasing numbers of requests for urgent action. The urgent appeal procedure is humanitarian in nature and typically involves asking Governments to guarantee their detainees' right to physical and mental integrity. Sixty-four urgent appeals, each of them concerning one or several persons, were sent in 1991.

In a series of urgent appeals sent to the Government of a Middle Eastern country, the Special Rapporteur requested information regarding 96 persons who had been detained and who, it was feared, might be subjected to torture. The Government responded by informing the Rapporteur that these persons had been arrested on various charges, such as taking part in an illegal street demonstration, being a member of an illegal organization and possessing explosives and ammunition. Allegations of torture were denied or not mentioned.

Such replies are common. Governments have also denounced allegations of torture as fabrications or as vilifications of the authorities, even though some of these same Governments have admitted on other occasions that torture has or might have occurred. On the other hand, the Rapporteur has also acknowledged that an increasing number of government replies conform to his requests.

Advisory services offered by the United Nations Centre for Human Rights in Geneva have helped many countries add a human rights dimension to courses given in police schools and to other security, law enforcement and public officials. The Centre also encourages Governments to bring national legislation into conformity with international human rights standards.

Among the measures that would help to accomplish this goal are compensating victims, punishing perpetrators, granting detainees the presumption of innocence, ensuring detainees' right of access to a lawyer, issuing prompt notification to families about a relative's detention and offering medical examinations by independent forensic doctors before and after detention and interrogation.

In his 1992 report, the Special Rapporteur recommended that incommunicado detention be declared illegal, that interrogation be conducted only at official interrogation centres, that places of detention be inspected regularly, that complaints about torture be investigated promptly and independently and that detained persons be assured the right to initiate proceedings on the lawfulness of their detention.

The Rapporteur singled out the role of a country's judiciary as the "last bastion for the protection of the citizen's basic rights". However, in his view, "it is tragic to note that in many cases the judiciary does not seem to be aware of the role it can play in upholding the rule of law" and that "in too many cases the judiciary, by hiding behind a false claim to impartiality and neutrality, has actually shielded the most brazen violations of human rights".

What might the judiciary do that it is not doing currently? The Rapporteur suggests that it could refuse to admit evidence that might have been obtained through torture, order the release of anyone who has been arrested and detained in violation of national and international standards and interpret national law in such a way that it conforms as much as possible with international standards. Unfortunately, until dramatic gains in the protection of human rights are achieved, the brave lawyers and judicial officials who take up the cause of human rights appear likely to continue to become targets of human rights violations themselves.

The same holds true for non-governmental organizations. NGOs play a crucial role in conducting world-wide campaigns to rouse public opinion and bring pressure on Governments. In May 1992, Amnesty International wrote to authorities in a European country to raise concern about allegations of ill treatment and torture by police of mostly black African asylum-seekers. The authorities promptly replied that an investigation had been ordered.

One of the most effective ways to deter torture is to arrange for regular visits to prisoners or political detainees, a procedure implemented successfully by the International Committee of the Red Cross (ICRC) in accordance with the provisions of the 1949 Geneva Convention. The ICRC has visited more than 500,000 detainees in 80 countries since 1919. The frequency of those visits increased after the Second World War.

Visits are also carried out within the jurisdiction of States parties to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Latin American States have discussed the possibility of setting up a similar Convention. The International Commission of Jurists and the Swiss Committee against Torture have stated their belief that the system of visits under the European Convention is cost-effective and juridically acceptable, and have recommended that similar systems be set up in Africa, North America and Latin America.

The idea of establishing a world-wide system of periodic visits, contained in a proposal made by Costa Rica in 1980, remains on the agenda of the Commission on Human

Rights. Towards this end, the Commission has established a Working Group in order to elaborate a draft optional protocol to the Convention against Torture.

Help for Victims

In 1973, Amnesty International held a conference in Paris to urge the medical profession to provide active medical assistance to victims of torture. The following year, the Rehabilitation and Research Centre of Torture Victims was established in Denmark and has since become one of the best-known facilities specializing in this area. Its activities include helping torture victims and their families, educating foreign health service personnel about ways to treat victims, conducting research on torture and its consequences and expanding into other countries documentation about the practice of torture. Similar rehabilitation centres have by now been established in several countries.

The Denmark Centre's doctors have found that they can help to relieve the mental anguish of torture victims through a multi-disciplinary approach consisting of psychotherapy, physiotherapy and counselling by a social worker. The role of social counsellors is considered crucial in helping victims resume a normal life, first at the treatment centre and then back in their home country or wherever they choose to settle. Such counsellors pay particular attention to victims' children, who often display lasting psychological wounds from the trauma of seeing a stricken parent. The Centre also relies heavily on interpreters to understand the sufferings and needs of victims. All personnel work hard to establish trust with their patients, since victims need to feel secure before talking about torture and its humiliations.

United Nations Voluntary Fund

The United Nations Voluntary Fund for Victims of Torture was set up by the General Assembly in 1981 to receive voluntary contributions and to help provide aid to institutions, organizations and groups offering medical, social and psychological assistance to torture victims and their families. Current grants have been given to projects being carried out in more than 40 countries. The projects are usually located at specialized rehabilitation centres, such as the Centre in Copenhagen and the Canadian Centre for Victims of Torture in Toronto.

The Fund's Board of Trustees has recommended that the World Conference on Human Rights set aside some time to meet as a pledging conference for contributions to the Fund. More generally, the World Conference will be a major forum for redoubling world-wide efforts to eliminate torture. Says the Special Rapporteur, "The fight against torture has to be continued relentlessly. . . . Only by the concerted and sustained action of all strata of society can the evil of torture be successfully fought and overcome. The prospect of the World Conference on Human Rights . . . should inspire all of us with new vigour in our efforts to eradicate this most malicious assault on human dignity."

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